

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
W. R. GRACE & CO., <u>et al.</u> ,)	Case No. 01-01139 (JKF)
)	(Jointly Administered)
Debtors.)	

Telephonic Hearing Date Requested: April 5, 2007
or as soon thereafter as the Court's schedule
permits.

**DEBTORS' EMERGENCY MOTION TO QUASH SPEIGHTS & RUNYAN
SUBPOENA OF DEPOSITION OF DR. ARTHUR LANGER AND REQUEST FOR
EXPEDITED HEARING THEREON**

On Sunday April 2, 2007, the law firm of Speights & Runyan served a subpoena upon Dr. Arthur M. Langer, Ph.D., of the City University of New York. A copy of the subpoena is attached as Exhibit A. It is dated March 26, 2007, but it was not served on Dr. Langer until April 2, 2007. The Speights & Runyan firm did not serve a copy of the subpoena to Grace or Grace's counsel -- Dr. Langer provided a copy to Grace. The subpoena purported to be for a deposition on Thursday April 5, 2007 at 10:00 AM and for the production of documents at the deposition.

Dr. Langer is not an expert witness for any party in these chapter 11 proceedings. He is not a current or former employee of any party in these proceedings. Dr. Langer has advised counsel for the Debtors that he is not available on Thursday April 5 for deposition and that he joins with Debtors in opposing the Speights & Runyan firm's subpoena.

The subpoena is thus *procedurally defective* for two reasons: (1) Service to a full-time, working employee of a university who is a non-party, non-expert entirely unconnected with this litigation for a deposition with less than four days notice is insufficient notice to the witness and is inappropriate and impermissible; and (2) lack of service of the subpoena to Grace -- at all, whether timely or untimely service -- renders the subpoena inoperative.

The subpoena is also *substantively inappropriate* for the following reasons:

- Dr. Langer has not been listed by Debtors or, to Debtors' knowledge, by any party to these chapter 11 cases, as a fact or expert witness in this chapter 11 proceeding.
- Dr. Langer has no connection to the Speights & Runyan firm's Asbestos PD claims, or to any Asbestos PD claims.
- The Speights & Runyan firm has not made any showing of relevance for Dr. Langer's deposition or the documents demanded to be produced. The subpoena makes no such showing. Today, Debtors' counsel informed Speights & Runyan by email and by facsimile that Dr. Langer's deposition will not proceed tomorrow because the of the defects with respect to lack of notice and lack of service of the subpoena. A copy of this letter is attached as Exhibit B. Debtors' counsel also asked the Speights & Runyan firm to provide, by way of an email meet and confer, any basis for the deposition. A copy of this request is attached as Exhibit C. The Speights & Runyan firm has not provided any such basis.

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CONCLUSION

For the foregoing reasons, the Speights & Runyan firm's defective subpoena of Dr. Arthur Langer should be quashed. The Debtors request that the Court schedule a telephonic hearing on this matter on April 5, 2007 or as soon thereafter as the Court's schedule permits.

Dated: April 4, 2007


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